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11
12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE NORTHERN DISTRICT OF CALIFORNIA

14
15 **PEOPLE OF THE STATE OF**
16 **CALIFORNIA, ex rel. Xavier Becerra,**
17 **Attorney General of California,**

18 Plaintiff,
19 v.

20 **UNITED STATES DEPARTMENT OF**
21 **EDUCATION and MIGUEL CARDONA, in**
22 **his official capacity as the United States**
23 **Secretary of Education,**

24 Defendants.

25 Case No. 3:21-cv-384-JD

26 **DEFENDANTS' STATEMENT OF**
27 **RECENT DECISION**

28 **Date: October 14, 2021**

Time: 10:00 a.m.

Courtroom: 11

18 Defendants attach hereto a recent decision issued in *California v. Cardona*, No. 5:20-cv-
19 1889, 2021 WL 4461187 (N.D. Cal. Sept. 29, 2021). In that case, involving the same parties as
20 this case, the court held that the plaintiff California lacked standing to assert a challenge against
21 the U.S. Department of Education under the Administrative Procedure Act (“APA”). Although
22 the court declined to reconsider its prior decision construing California’s APA challenge as
23 procedural—a position that Defendants here have contested—the court nevertheless held that
24 California failed to show an injury-in-fact sufficient to support standing and dismissed
25 California’s claim in its entirety. *See id.* at *6. The court followed the reasoning in *Maryland v.*
26 *U.S. Dep’t of Educ.*, 474 F. Supp. 3d 13 (D.D.C. 2020), *vacated on other grounds*, 2020 WL
27 7868112 (D.C. Cir. Dec. 22, 2020), which Defendants have also cited in support of their Motion
28 to Dismiss in this case. *See California*, 2021 WL 4461187, at *5; Def. MTD [ECF No. 25] 5-11.

1 DATED: October 4, 2021

Respectfully submitted,

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